IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MS JUSTICE G.ROHINI**

**WRIT PETITION NO : 4097 of 2005**

Between:

Majilis-e-Ahle Sunnatul Jamat rep by Executive Member, Mr. Md. naseeb Miya S/o d. Pasha Miya H. No. 6-5-74, Wadargalli, Tandur, Ranga Reddy District

**..... PETITIONER**

AND

1 The District Collector & Chairman, Ranga Reddy District, Hospital Advisory Committee, District Hospital, Tandur, Ranga Reddy District
2 The Medical superintendent, District Hospital, Tandur, Ranga Reddy District

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in not issuing the work order with regard to the maintenance of sanitation of District Hospital, Tandur, RR District despite the petitioner is the successful bidder having sufficient work experience, as illegal, arbitrary, unconstitutional and contrary to law and consequently direct the respondents herein to issue work order to the petitioner herein and pass such other order or orders as may deem fit and proper in the circumstances of the case.

**Counsel for the Petitioner : MR. CHILAMKURI HANUMANTHA RAYUDU**

**Counsel for the Respondents : GP FOR MEDICAL HEALTH & FAMILY WELFARE**

**The Court at the stage of admission made the following :**

**THE HON'BLE MS. JUSTICE G.ROHINI**

**WRIT PETITION NO.4097 OF 2005**

**ORDER :**

The respondents herein issued tender notice dated 28-08-2004 inviting sealed bids from the registered social service organisations for entering into a contract for a period of six months for the maintenance of sanitation at District Hospital, Tandur, R.R. District.

The petitioner, which claims to be a registered society states that in pursuance of the said tender notice, they have submitted their bid duly paying the requisite security deposit of Rs.10,000/- on 27-09-2004. Thereafter, the bids were opened by the respondent on 28-09-2004 in the presence of the bidders and it was found that a society by name Mudiraj Yuvajana Sangham was the lowest bidder who quoted a sum of Rs.1,34,988/-. The petitioner was found to be second lowest bidder having quoted Rs.1,77,000/-. However, the respondents have not awarded the work in favour of the lowest bidder and in the circumstances the lowest bidder – Mudiraj Yuvajana Sangham filed W.P.No.23600 of 2004. The said writ petition was dismissed by this Court holding that the society is not eligible due to lack of experience in the field. The petitioner claims that being the second lowest bidder and particularly since they are having sufficient work experience, the respondents ought to have issued the work order in their favour. Since the respondents were delaying the matter, the petitioner made a representation dated 22-01-2005 followed by reminder dated 27-01-2005 requesting to issue the work order, but the respondents failed to respond. Hence, this writ petition seeking a declaration that the action of the respondents in not issuing the work order despite the petitioner is the

successful bidder is arbitrary and illegal.

The learned Counsel for the petitioner vehemently contends that having invited the tenders, the respondents are bound to award the work in favour of the successful bidder. That apart, according to the learned Counsel, since the petitioner is having sufficient work experience, there is absolutely no justifiable reason in not awarding the contract in favour of the petitioner.

On the other hand, the learned Government Pleader for Medical & Health, under instructions, states that since the lowest bidder was found to be lacking in experience and the bid quoted by it did not meet the expenditure, it was decided by the District Collector and Chairman, Hospital Advisory Committee not to grant the tender in favour of the lowest bidder. Even the petitioner, who was the second lowest bidder failed to submit any material to show its experience in the maintenance of sanitary works and therefore the respondents have decided to invite fresh tenders. The learned Government Pleader has also relied upon the conditions in the bid form under which the respondents reserved the right to reject any or all bids and cancel the bidding process at any time prior to the award of the contract.

Having regard to the submissions made by the learned Government Pleader, I do not find any substance in the contentions raised by the writ petitioner. The law is well settled that where the terms & conditions of tender give power to the Tender Inviting Authority to postpone or cancel the tender without assigning any reasons whatsoever he may do so and no right will accrue to the tenderer unless and until the tender is accepted. It is also a well settled principle of law that the lowest bidder cannot claim any vested right to award of the contract.

In the circumstances, the mere fact that the petitioner was the second lowest bidder is of no consequence and no Mandamus can be issued compelling the respondents to award the work in favour of the petitioner particularly when the respondents having found that no bidder has satisfied the criteria as to the experience, decided to issue a fresh tender notification.

The Writ Petition is devoid of any merit and accordingly the same is dismissed. No costs.

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04th March, 2005.

gbs

To

1 The District Collector & Chairman, Ranga Reddy District, Hospital Advisory Committee, District Hospital, Tandur, Ranga Reddy District
2 The Medical superintendent, District Hospital, Tandur, Ranga Reddy District

3. Two CCs to G.P. for Medical, Health & Family Welfare, High Court of A.P. Bldgs, Hyderabad (OUT).

4. 2 CD copies